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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION**
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12 SHANE MATTHEW MULVIHILL,) Case No. CV 17-00579-MWF (AS)
13)
14 Petitioner,) **ORDER OF DISMISSAL**
15)
16 v.)
17)
18 SUPERVISING CORRECTIONAL)
19 COOK, O'AKOH,)
20)
21 Respondent.)
22)
23)
24)
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28)

19 **BACKGROUND**

21 On January 24, 2017, pro se Petitioner, Shane Matthew
22 Mulvihille, currently located at California Institution for Men
23 in Chino, California, filed a Petition for Writ of Habeas Corpus
24 ("Petition"). (Docket Entry No. 1). The Petition alleges that
25 Supervising Correctional Cook O'Akoh harassed Petitioner and
26 refused to give Petitioner his state-allowed lunch. (Petition at
27 1, 8). The Petition appears to raise the following claims: (1)
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1 O'Akoh's actions violated California Department of Corrections,
2 Title 15, Section 3391(a); and (2) O'Akoh's actions constituted
3 cruel and unusual punishment under the Eighth Amendment.
4 (Petition at 4-5).

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6 "[T]he writ of habeas corpus is limited to attacks upon the
7 legality or duration of confinement." Crawford v. Bell, 599 F.2d
8 890, 891 (9th Cir. 1979) (citing Preiser v. Rodriguez, 411 U.S.
9 475, 484-86 (1973)); see also Hill v. McDonough, 547 U.S. 573, 579
10 (2006) ("Challenges to the validity of any confinement or to
11 particulars affecting its duration are the province of habeas
12 corpus.'" (citation omitted). Since Petitioner's claims do not
13 attack the legality or duration of his confinement, his claims are
14 not cognizable on federal habeas review. Accordingly, the federal
15 habeas petition filed by Petitioner under 28 U.S.C. § 2254 must
16 be denied.

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ORDER

IT IS ORDERED that the Petition be dismissed without prejudice.¹

DATED: January 30, 2017



MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE

¹ It appears that Petitioner is actually claiming a violation of his civil rights. If so, Petitioner may seek to file the appropriate action pursuant to 42 U.S.C. § 1983. The Court notes that Petitioner has two pending civil rights actions in this Court. See Mulvihill, Shane Matthew v. Dean Borders, Warden, Case No. CV 17-00079-MWF (AS); Mulvihille, Shane Matthew v. Los Angeles County Sheriffs Department, Case No. CV 17-00200-MWF (AS).